



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

**JOHN L. BILL
ATTORNEY GENERAL**

August 16, 1974

**The Honorable Michael Ainsa
Assistant City Attorney
City of El Paso Legal Department
Room 203, City-County Building
El Paso, Texas 79901**

Open Records Decision No. 43

**Re: Police investigation of
an accident involving
possible litigation with
city.**

Dear Mr. Ainsa:

Pursuant to Sec. 7(a) of Article 6252-17a, V. T. C. S., the Open Records Act, you ask whether supplementary reports concerning a serious one-car accident are excepted from disclosure either by Sec. 3(a)(8), the law enforcement records exception, or by Sec. 3(a)(3), which excepts information relating to litigation to which the city is or may be a party.

A standard Department of Public Safety "Texas Peace Officer's Accident Report" was prepared concerning the accident and a copy has been provided to the requesting party, the attorney for the driver involved in the accident. Additional reports were prepared, consisting of the statements of two police officers who witnessed the accident and two other police officers who arrived shortly afterward. Also, the statement of a police photographer with a catalog of pictures taken and a report of a follow-up investigation of the scene are included in the requested information. You have declined to disclose this information.

Accident reports are required to be made and submitted by peace officers to the Department of Public Safety. Sec. 44(c), Art. 670ld, V. T. C. S. Section 47 of Art. 670ld was amended in 1969 to make such accident reports public information and available to the public upon payment of a \$2 fee. You have stated that the supplementary reports were prepared by the police officers in the regular course of their duties in investigating the accident.

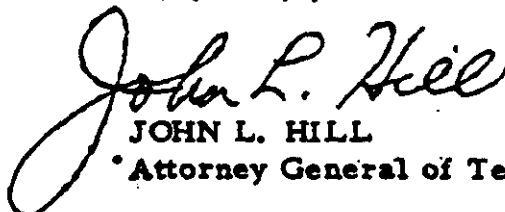
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In our opinion, these supplementary reports consisting of witnesses' statements, and photographs are part of the official accident report and, as such, are also public information, whether or not forwarded to the Department of Public Safety. Sec. 3(a)(8) does not except the information requested from disclosure.

The question is then whether the information may be excepted from disclosure by Sec. 3(a)(3), as information relating to litigation of a civil nature to which the city is or may be a party. Where, as here, the information is developed as part of the preparation of an official report specifically made public by statute, we do not believe the Sec. 3(a)(3) exception applies.

The fact that the request was made of the Police Department rather than the Department of Public Safety should not bring about a different result where it is the same report and the same information that, by statute, should have been filed with the Department. See Attorney General Opinion H-115 (1973).

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:


C. J. CARL, Staff Legislative Assistant


DAVID M. KENDALL, Chairman
Opinion Committee